

REMARKS

By the Response, claims 1 and 21 have been amended to more particularly point out and distinctly claim the subject matter of the invention. Claim 16 has been revised to correct a minor typographical error. New independent claim 22 has been to further describe an additional feature of the invention. New claim 22 differs from amended claim 1 with respect to the added feature, i.e., “the first member coming into pressing contact with the second member when the second member moves toward the fixing position.” Support for the amendments can be found in the specification, e.g., at page 11, lines 9-14 and Figures 15A-15D. No new matter has been added. Accordingly, claims 1-22 are respectfully submitted for consideration. Approval and entry of the amendments are respectfully requested.

Rejection Under 35 U.S.C. §102(b)

Claims 1-13 and 16-21 are rejected under 35 U.S.C. §102(b) as being anticipated by Kuhr et al. (U.S. Patent Application Publication No. 2002/0040230). Applicant respectfully traverses the rejection at least for the reason that Kuhr et al. fail to describe each and every limitation recited in the rejected claims.

As set forth in amended claim 1, the lancing apparatus of the presently-claimed invention requires a lancet holder for retaining a lancet and a lancet moving mechanism for moving the lancet. In addition, the lancet includes a main body and a needle projecting from the body. The lancet holder is moved in a lancing direction from a standby position to a lancing position together with the lancet in response to movement of the lancet moving mechanism so as to cause the lancet to stick into an object. The lancet is inserted into the lancet holder in a retreating direction opposite to the lancing direction, thus to be retained by the lancet holder. Furthermore, the lancet holder includes a first member and a second member that are movable relative to each other. The second member is in direct contact with the first member and movable relative to the first member between a fixing position in which the main body of the lancet is fixed to the lancet holder with a first fixing force for limiting axial removal of the lancet from the lancet holder and a non-fixing position in which the main body of the lancet is held by the lancet holder with a second fixing force smaller than the first fixing force for facilitated axial removal of the lancet from the

lancet holder. The second member is moved in the lancing direction together with the first member and the lancet in response to the movement of the lancet moving mechanism for causing the lancet to stick into the object when the second member is held in the fixing position for fixing the lancet to the lancet holder.

Support for the additional features in amended claim 1, as underlined above, may be found in the specification, e.g. at lines 9-14 of page 11 and Figures 15A-15D, wherein the lancet holder 32 (including the first member and the second member) is shown to advance for lancing the skin “Sk” (object) in response to movement of the lancet moving mechanism (including a link unit 30 and a moving plate 31). These additionally recited features are intended to provide a more specific definition for the first and second members of the lancet holder in combination with the lancet moving mechanism.

Kuhr et al. fail to describe or suggest the lancing apparatus as set forth in amended claim 1. In rejecting claim 1, the Examiner equates the holder tongues 12a of the lancet holder 12 of Kuhr et al. with the claimed “first member” while equating the ejector 30 of Kuhr et al. with the claimed “second member.” However, as previously pointed out (see Response to Office Action filed December 10, 2010 at page 7, paragraphs 4-5), the ejector 30 of Kuhr et al. is not part of the lancet holder 12, and it is moved in the lancing direction only at the time of ejecting or removing the lancet 4 out of the lancet holder 12 (see Kuhr et al., paragraph [0034] and Figures 6-9). In addition, as shown in Kuhr et al., the holder tongues 12a of the lancet holder 12 come into pressing contact with the lancet 3 but does not come into pressing contact with the ejector 30. If the ejector 30 (second member) moves together with the holder tongues 12a (first member) or the lancet holder 12 in the same lancing direction, it becomes impossible to push the lancet 4 out of the lancet holder 12. Therefore, Kuhr et al. fail to teach or suggest the presently-claimed lancing apparatus having “the first member being moved in the lancing direction together with the second member and the lancet for causing the lancet to stick into the object when the second member is held in the fixing position for fixing the lancet to the lancet holder,” as set forth in amended in claim 1. Further, since the ejector 30 is not part of the lancet holder, Kuhr et al. also fail to teach or suggest the claimed “lancet holder” that includes a first member and a second member.

More importantly, Applicant wishes to bring the Examiner's attention to Figures 6-9 of Kuhr et al., as well as the corresponding description in paragraphs [0041-0043], from which it is clear that the ejector 30, which is integrally movable with sleeve 38 (see also Figure 5), does not move at all while the cap 20 is held latched to the housing part 24 (see Figure 2) for lancing or pricking process. Otherwise, the lancet 3 is released from the lancet holder 12 during the lancing process. Therefore, though the lancet holder 12 including the holder tongues 12 moves in the lancing direction together with the lancet 3, the ejector 30 remains in the same position as long as the cap 20 is held latched to the housing part 24 (Figure 2) during the lancing process. For this reason, the ejector 30 of Kuhr et al. is not part of the lancet holder 12, and the Examiner's interpretation of Kuhr et al. is improper. Paragraph [0036] of Kuhr et al. referred to on page 4 of the Office Action merely describes the provision of a recess 43 before a ring-shaped protrusion 41 of the cap 20, and Figure 2 of Kuhr et al. seems to show the state in which each radial collar 37 of the coupling element 34 (or sleeve 38) rest on the bottom of the recess 43 for preventing downward movement of the sleeve 38 (and of the ejector 30 as well).

In view of the above remarks, Applicant respectfully submits that the ejector 30 of Kuhr is not equivalent to the claimed "second member". Therefore, the lancing apparatus, as set forth in amended claim 1, as well as the claims that depend therefrom, is patentably distinct from that of Kuhr et al.

The lancet apparatus of amended claim 21 and new claim 22 include similar features as set forth in amended claim 21. These similar features are also patentably distinct from that of Kuhr et al. for the same reasons as presented above with respect to amended claim 1.

For at least these reasons, Applicant respectfully requests reconsideration and withdrawal of the §102(b) rejection of claims 1-13 and 16-20 in view of Kuhr et al.

Rejection under 35 U.S.C. §103(a)

Claims 14 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kuhr et al. (U.S. Patent Application Publication No. 2002/0040230). Applicant respectfully traverses this rejection. Both of these rejected claims depend on amended

claim 1 and are patentable over Kuhr et al. for at least the same reasons presented above with respect to claims 1-13 and 16-20.

In view of the amendment and arguments set forth above, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of claims 14 and 15.

CONCLUSION

In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1-21, as well as newly added claim 22, be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's representative, the Examiner is invited to contact the undersigned at the numbers shown.

Further, while no fees are believed to be due, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-4525.

Respectfully submitted,

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